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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,978	12/08/2005	Kan'ichi Sato	04244/LH	7660

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER

CHENEVERT, PAUL A

ART UNIT	PAPER NUMBER
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3612

MAIL DATE	DELIVERY MODE
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08/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/559,978

Applicant(s)

SATO, KAN'ICHI

Examiner

Paul A. Chenevert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-41 is/are pending in the application.
- 4a) Of the above claim(s) 40 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. PCT/JP04/008275.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 17-39, drawn to an interior member apparatus, classified in class 296, subclass 39.3.
 - II. Claims 40 & 41, drawn to the method of forming an interior member, classified in class 52, subclass 787.11.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)).
3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Leonard Holtz on 28JUN07 a provisional election was made without traverse to prosecute the invention of I, claims 17-39. Affirmation of this election must be made by applicant in replying to this Office action. Claims 40 & 41 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

5. The drawings were received on 22MAY07. These drawings are acceptable.

Claim Rejections - 35 USC § 102

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Sachse (US 4,308,308 A; 29DEC81).

Sachse discloses an interior member *capable* for a cab of a work vehicle, comprising: a foundation body panel (stiffening sheeting 3) which has a first side and a second side, and which comprises a plurality of ribs (surface braces 5) at the second side, at least one space being defined by the ribs at the second side of the foundation body panel; an outer layer material (metal sheeting 1) provided at the first side of the foundation body panel; a first sound absorbing member (anti-drumming sheeting 4) comprising a sound absorbing material provided between the outer layer material and the first side of the foundation body panel.

Claim Rejections - 35 USC § 103

8. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachse in view of Price (US 2,198,885 A; 30APR40).

Sachse discloses a sound insulated interior member having a second side with ribs and a space between the ribs.

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However, Sachse does not expressly disclose a second sound-absorbing member comprising a sound absorbing material provided in the space defined by the ribs.

Price discloses a composite thermal insulating unit having two sound absorbing members (cementitious material 1, binder 20) separated by a ribbed foundation panel (partition forming sheet material 21). In regards to claims 19 & 20, the ribbed foundation panel may also cross each other, as best seen in Figures 5 & 6.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interior member of Sachse, to employ a second sound-absorbing member, as taught by Price.

The suggestion/motivation for doing so would have been to provide a smooth exterior surface on the second side of the foundation panel, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the interior member of Sachse by combining a second sound absorbing member with the foundation panel to obtain the invention as specified in claim 18 & 19, as taught by the prior references' motivation, and not hindsight from the Applicant's disclosure.

9. Claims 21-23, 28, 31-33 & 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachse in view of Beulat (US 5,595,415 A; 21JUN97).

Sachse discloses a sound insulated interior member.

However, Sachse does not expressly disclose a channel for attaching a wire member, an air-conditioning duct closed by a closing member, an interior metal plate coupled to the vehicle cab by a fastener, and a painted exterior metal plate.

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Beaulat discloses a sound insulated interior member comprising a channel (5) for attaching a wire member, an air-conditioning duct (4) closed by an interior metal plate (1b) coupled to the vehicle cab by a fastener, and a painted exterior metal plate (1a).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interior member of Sachse, to employ a door frame, as taught by Beaulat.

The suggestion/motivation for doing so would have been to place the interior member in a doorframe, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the interior member of Sachse by combining exterior plates with ducts to obtain the invention as specified in claims 21, 22, 28, 31, 33 & 37, as taught by the prior references' motivation, and not hindsight from the Applicant's disclosure.

10. Claims 24 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachse in view of obvious common knowledge.

Sachse discloses a foundation body panel formed by a resin and all other claim limitations except for the resin being made from polyurethane. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a polyurethane resin, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious mechanical expedient choice. *In re Leshin*, 125 USPQ 416.

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11. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sachse, as modified, as applied to claim 18 above, and further in view of Iwasa et al. (US 5,744,763 A; 28APR98).

Sachse, as modified, disclose a sound insulated interior member having a first and second sound-absorbing member.

However, Sachse, as modified, do not expressly disclose that the second sound-absorbing member is made of polyurethane foam.

Iwasa et al. disclose a sound insulated interior member comprising a sound-absorbing member (20) made of polyurethane foam, as described on column 14, line 56.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interior member of Sachse, as modified, to employ polyurethane foam, as taught by Iwasa et al.

The suggestion/motivation for doing so would have been to allow for various material choices of the sound absorbing members, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the interior member of Sachse, as modified, by employing polyurethane foam to obtain the invention as specified in claims 26, as taught by the prior references' motivation, and not hindsight from the Applicant's disclosure.

12. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sachse in view of obvious common knowledge.

Sachse discloses the claimed invention except for the first sound-absorbing member having a thickness of 5mm to 20 mm. It would have been obvious to one having ordinary skill in

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the art at the time the invention was made to design the first sound-absorbing member to a thickness of 5mm to 20mm, since it has been held to be within the general skill of a worker in the art to select a thickness on the basis of its suitability for the intended use as a matter of obvious mechanical expedient choice. *In re Leshin*, 125 USPQ 416.

13. Claims 29, 30, 34, 38 & 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachse, as modified, as applied to claims 28, 33 & 37 above, and further in view of Price.

Sachse, as modified, disclose a sound insulated interior member having a first sound-absorbing member and a foundation body panel is fastened to a metal plate.

However, Sachse, as modified, do not expressly disclose a second sound-absorbing member.

Price discloses a composite thermal insulating unit having two sound absorbing members separated by a ribbed foundation panel.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interior member of Sachse, as modified, to employ a second sound-absorbing member, as taught by Price.

The suggestion/motivation for doing so would have been to provide a smooth exterior surface on the second side of the foundation panel, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the interior member of Sachse, as modified, by combining a second sound absorbing member with the foundation panel to obtain the invention as specified in claims 29, 30, 34, 38 & 39, as taught by the prior references' motivation, and not hindsight from the Applicant's disclosure.

Response to Arguments

14. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Chenevert whose telephone number is 571-272-6657. The examiner can normally be reached on Mon-Fri (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

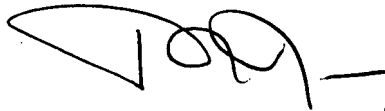
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul A. Chenevert
Examiner
Art Unit 3612

PAC
23JUL07

PAC


7/26/07
D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Approved

PAC 25 JUN 07

Fig. 8

